

IN THE SUPREME Court
OF THE STATE OF OREGON

In Re:)	
	)	OSB Case No. 04-128
Complaint as to the Conduct of)	
	)	BR 3.5 ANSWER TO
	)	NOTICE OF DISCIPLINE
	)	IN ANOTHER
JUSTUS BUCK HUMPHREYS	)	JURISDICTION -
	)	OBJECTIONS AND
	)	AFFIRMATIVE
	)	DEFENSES
Accused.)	
	)	REQUEST FOR TRIAL
	)	PANEL & HEARING
_____	)	ON NOTICE

Reverend Justus "Buck" Humphreys, M.Th., J.D. with honors¹, who currently resides and maintains his office at 3660 Harlow Road, Eugene, Oregon 97401, in the County of Lane, State of Oregon, Answers the Notice of Discipline in Another Jurisdiction and states objections and affirmative defenses respectfully as follows:

¹ The "Accused" in this case was ordained to the sacred priesthood as an Episcopal priest in August 1998. He was then, as custom and tradition require given the saint's name of "Justus."

STATEMENT OF OBJECTIONS

That the "Accused" files the following objections and requests hearing thereon:

Reciprocal Special Proceeding BR. 3.5 is unconstitutional as a matter of law and facts.

1.

That this proceeding has been filed as a special proceeding under B.R. 3.5. That B.R. 3.5 is contrary to and flies in the face of the statutes, law and constitutions of Oregon and the United States. That as such, it is objected to and should be dismissed or transferred to the standard contested cases formal complaint process provided by B.R. 4 which provides for the administration of resident lawyers in the State of Oregon, with discovery, evidentiary hearing and burden of proof upon the Oregon State Bar (OSB) by clear and convincing evidence. That B.R. 3.5 is applicable only to the Accused and to other lawyers similarly situated that as non residents or members of another bar association have suffered

discipline in another jurisdiction which violates the statutory and constitutional rights of the "Accused" and others in the class of non residents.

That in this case and others similarly situated, the discipline in another jurisdiction was based upon the same mandatory compulsory discipline process without discovery, evidentiary hearing and a burden of proof placed improperly on the Accused with a different standard of evidence and procedure from resident lawyers accused of the same or similar conduct.

BR. 3.5 VIOLATES OREGON STATUTES

3.

That ORS 670.325 (1) provides that:

670.325 Proceedings on denial of license; retraining violations; authority of hearing officers' record of proceedings. (1) All proceedings for the refusal to issue, or the suspension or revocation of any license, certificate of registration or other evidence of authority required to practice any

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profession subject to the authority of a professional licensing or advisory board shall be conducted pursuant to the procedure for contested cases required or authorized by ORS 183.310 to 183.550.

That ORS 183.3102A defines "contested case" as a proceeding:

(2)(a) "Contested case" mean a proceeding before an agency:
(A) In which the individual legal rights, duties or privileges of specific parties are required by statute or Constitution to be determined only after an agency hearing at which such specific parties are entitled to appear and be heard;

That ORS 9.527 also requires:

"proper proceedings for that purpose."

That "contested case" and "proper proceedings" authorized and required are not the "special proceeding" provided for in B.R. 3.5 which does not provide for discovery, evidentiary hearing, and switches and modifies the burden of proof on the OSB by clear and convincing evidence; applies only to that class of

lawyers involved with a multiple jurisdiction practice, rather than privilege and equal protection provided in "contested case" proceedings to all resident lawyers accused of the same or similar conduct. (See In Re McD.R.ano, 956 F2d 101 (5th Cir 1992 - requiring a clear and convincing evidence, burden of proof on the bar.)

That this special proceeding under B.R. .3.5 violates the due process clause of the 14th Amendment to the U.S. Constitution as it applies to Oregon, and the "due course of law" that every man shall have pursuant to Art. 1, §, 10 of the Oregon Constitution. That Resident lawyers are favored over non resident and multi jurisdictional attorneys do not have the same rights. That it further violates each and all of the following. Art. 1, Sections 11, (Rights of Accused), 17, (Right to jury trial), 20 (Equality of Privileges and Immunities), 21 (No Ex Post Facto Laws), 33 (Other rights and privileges), Oregon Constitution; U.S. Constitution, Article IV, Section 2 (Privilege and Immunities), Amendments V (Due Process,

Double Jeopardy), VI (Rights of Accused), VII Trial by Jury, VIII No Excessive Punishment, XIV Privileges and Immunities, due process, equal protection, (See also, Piper v. New Hampshire, 470 US 274 (1985)) - holding that the distinction between residents and non residents for admission to the bar is unconstitutional.)

BR. 3.5 EXCEPTION - "NO DAY IN COURT"

5.

Humphreys has not had his "day in Court." That there has been no "opportunity to be heard."

(B.R. 3.5(c)(1)). That the "convictions" and disciplinary proceedings upon which the claims and causes in the Notice of Discipline in Another Jurisdiction (hereinafter referred to as "Notice") are based, were not accomplished with due process and equal protection of the law allowed under the 5th, 6th, and 14th Amendments of the U.S. Constitution and "due course of law", under Articles I, Sections 1, 10, 11, 17, 20, 21, and 33 of the Oregon Constitution. There being no adequate evidentiary hearing and opportunity to offer evidence on the alleged

conduct involved in the 1980's. (Going back to conduct twenty two (22) years ago. (Restatement of Conflict of Laws 2nd §104 - "A judgment rendered without judicial jurisdiction or adequate opportunity to be heard will not be recognized or enforced in another state."))

"CONVICTION" - VOID VERDICT

6.

That the laws of the State of Texas which was the "Accused's" residence at all times material to the 1991 trial (14 years ago) for alleged conduct in the eighties (22 years ago) upon which the underlying "misconduct" and first discipline is based confirm that a verdict of guilty with a dishonorably discharged convicted felon on the jury is a void verdict not entitled to any validity nor "conclusive evidence of guilt." (Texas Criminal Proc. Ann. Art 35.19 (1989), Tweedle v. State, 158 Tex. Crim 200 218 SW2d 846 (1949) See also ORS 10.030 excluding felons as jurors. Restatement of Conflict of Laws 2nd §104 - "A judgment rendered without judicial jurisdiction or adequate opportunity to be heard will not be

recognized or enforced in another state."

DELAY & LACK OF "DUE COURSE OF LAW"
PREJUDICIAL

7.

That the claims and causes in the Notice are untimely, delayed and subject to the defense of laches, as well as, barred by the Oregon statute of limitations. That the alleged conduct involved is from the 1980's up to twenty two (22) years ago and the claims of failing to disclose from 1991 "conviction" (14 years ago) and 1997 (8 years ago) respectively. They further violate Art. 1, Section 10 of the Oregon Constitution in that they do not "...completely and without delay..." allow remedy by due course of law for injury done "to" a person, property, or reputation", both in delay and lack of "due course of law." That the "Accused's" property and liberty interests are involved herein and lack of speedy hearing and trial is presumptively prejudicial to the "Accused", as a matter of law.

BARRED BY STATUTE OF LIMITATIONS

8.

That Oregon provides several statutes of limitations that

show that this action should be barred. This entire proceeding is based upon alleged conduct in the 1980's that were the basis of a United States District Court Judgement in 1991. ORS 12.070 provides:

an action on a judgment or decree of the United States...shall be commenced within ten (10) years.

It is now over thirteen (13) years since that judgment. It should be barred. ORS 12.130 could be considered in this case as well. It provides:

"Action for penalty...shall be commenced within one (1) year after the commission of an offense. If the action is not commenced...within two (2) years thereafter on behalf of the state...

The offenses from the 1980's go back as far as twenty two (22) years ago. If these do not apply then ORS 12.140 would:

"An action for any cause not otherwise provided for shall be commenced within ten (10) years."

It has been more than thirteen (13) years since the conviction for conduct twenty two (22) years ago.

EX POST FACTO LAWS SHOULD NOT APPLY

9.

That in consideration of this Notice and any possible discipline that may be imposed no discipline, or rules of conduct that were established after any of the conduct found to have occurred should be considered or imposed against the "Accused" the same being ex post facto laws in violation of Article 1, §21 and 10 Oregon Constitution. (E.G. Oregon "Disbarment" under law at the time is, a five (5) year suspension not permanent.) "The basis for lawyer discipline is the ethics rules in force in the state **at the time of the conduct...**" (ABA/BNA Lawyers Manual on Professional Conduct 101:2002. i.e. 1980's.)

OREGON POLICY OPPOSES FURTHER DISCIPLINE

10.

That any further disciplinary action against Humphreys violates ORS 137.275 and 137.281 which "eliminates civil

death or disability" in that the civil rights of the "Accused" under Oregon policy have been restored and therefore Art. I §20 Equality of Privileges, Oregon Constitution. (Vasquez v. Courtney, 272 OR 477 (1975)) forbids additional punishment or penalty which would "disable" Humphreys and violate the "Accused's" civil rights entitlement under state policy.

NO COLLATERAL ESTOPPEL

11.

That the basis of B.R. 3.5 consideration of a conviction or the other state's discipline being "conclusive evidence" of guilt is based on the legal doctrine of collateral estoppel. That does not apply in this case! The issues are not identical and were not actually litigated and were not essential to decision on the merits. There was also not a full and fair opportunity to be heard. The state of mind, and elements are different. That is true in both the conviction and the other jurisdiction proceedings. In the other jurisdiction there were no complaints, only copies of the judgment from the Clerk of Court pursuant to Model Standard Rule XIII to Model Rule 19 (ABA/BNA

Lawyers Manual on Professional Responsibility 01:618, 01:708). There was no trial panel evidentiary hearing in which there was a presumption of innocence, burden of proof on the bar, confrontation of witnesses and findings of fact as to conduct. The palpable defects in the conviction are noted elsewhere. This is therefore, a case of exception under B.R. 3.5 because there was no "opportunity to be heard" pursuant to due process and "due course of law", contrary to the equal protection allowed to resident attorneys. That is also true thus far in these proceedings. Application of B.R. 3.5 in our case compounds palpable errors already existing.

12.

That Footnote Number 1, on page 2 of the Notice is objected to in that it prejudicially claims actions which are in dispute, denied unresolved and irrelevant to these proceedings and should be stricken.

13.

The procedure in B.R. 3.5 is also objected to in that the

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issues set out in 3.5c are not adequate under the law, in Oregon and the facts of this case.

14.

Objection is made to any summary interim suspension based on the Notice without full neutral trial panel hearing. There is no claim of "present danger to clients and others if permitted to continue practicing pending final outcome." (Restatement 3rd Law Governing Lawyers (2000) p. 44). Disciplinary counsel makes no such demand for suspension during pendency of disciplinary proceedings under BR 3.1.

ANSWER

COMES NOW THE "Accused" and subject to the above objections and the later stated affirmative defenses for Answer to the Notice of Discipline in Another Jurisdiction states respectfully as follows:

15.

That it is admitted that in August 1991, (14 years ago), the Accused was tried for conduct going back to 1983,

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(22 years ago) in the U.S. District Court in Iowa and convicted by a jury that contained a dishonorably discharged convicted felon of \$14,000 taxes due over a five (5) year period (i.e. \$2,500/year average) on tax returns prepared by C.P.A.'s and staff accountants which Humphreys was guilty of signing.

16.

That it is admitted that the judgment of conviction was affirmed on appeal with the Honorable David Hansen the trial judge then appointed to the Court of Appeals not participating and the Appellate Court found no error in Judge Hansen's rulings when he was trial judge, but criticized Humphreys defense attorney for not taking appropriate action. (Head note 19).

17.

That it is admitted that on or about March 30, 1994, (11 years ago), the Texas Supreme Court applied the reciprocal compulsory mandatory discipline summarily disbaring the

accused without consideration of the underlying conduct and without any evidentiary trial or hearing. That it is affirmatively stated that the Texas State Bar Panel on Professional Responsibility, titled Board on Disciplinary Action (BODA) had dismissed the proceeding recommending no discipline exonerating Humphreys. That had BODA suspended the accused for a short time, rather than completely exonerating him from any misconduct by dismissal no disbarment would have occurred (Texas Rule 8.5). But see, Restatement of Conflict of Laws 2nd §104 - "A judgment rendered without judicial jurisdiction or adequate opportunity to be heard will not be recognized or enforced in another state.") That all specific claims of findings are denied as being without basis in law or fact and not the subject of an evidentiary hearing pursuant to due process, equal protection and privileges and immunities required under the "due course of law."

18.

That it is admitted that on or about November 23, 1994,

(10 years ago) the Iowa Supreme Court treating the case in the same or similar way of the reciprocal compulsory mandatory discipline of Texas and what is proposed herein under B.R. 3.5 disbarred the accused **contrary to the recommendation for suspension by its bar committee.** That all specific claims of findings are denied as being without basis in law or fact and not the subject of an evidentiary hearing pursuant to due process, equal protection and privileges and immunities required under the "due course of law."

AFFIRMATIVE DEFENSES

19.

That the Notice of Discipline in Another Jurisdiction fails to state a claim or cause for which discipline can be imposed.

20.

Humphreys is actually innocent of professional misconduct, and the spurious criminal charges

21.

That the claims and causes in the Notice are untimely,

delayed and barred by the defense of laches and the statutes of limitations. (See paragraphs 7 and 8.)

PRESENTLY FIT TO PRACTICE

22.

Former discipline in another state does not preclude determination that an attorney is fit to practice in Oregon. Many other states have so held. (See E.G. in Re Van Bever, 101 P2d 790 (Ariz 1940), Kentucky Bar v. Signer, 533 SW2d 534 (194. 1976), In Re Weiner, 530 SW 2d 222 (Mo 1975), 547, SW 2d 959) Oregon case law also establishes this Court's individual review and determination whether any sanction is necessary.

"The central inquiry concerns *the present ability* and disposition of the applicant to practice law completely and honestly.: (Restatement 3rd Law of Governing Lawyers, (ALI 2000) § 2 p. 19).

**THAT THE ACCUSED IS COMPETENT & FIT TO
PRACTICE LAW IN OREGON
EXPLANATION - JUSTIFICATION DEFENSE TO
CHARGES**

**LACK OF DUE PROCESS, EQUAL PROTECTION- &
"DUE COURSE OF LAW"**

23.

Humphreys has never had his "day in Court" on the underlying criminal charges. His defense attorney on the third day of a scheduled six (6) week trial in 1991 discovered a juror-dishonorably discharged convicted felon on the jury considering the charges against the Accused a former Judge Advocate General Officer and the first lawyer for the U.S. Army Vietnam. The defense attorney used the trial for discovery purposes allowing collateral-objectionable evidence to be admitted without objection and called only five (5) of twenty two (22) persons on the witness list. Witnesses not called to testify included an expert witness for the defense that sat through the trial, Humphreys office manager, accountants, and others that would show no merit to the charges. All because the defense attorney expected a new trial and any verdict to be void. The trial closed in two weeks rather than the scheduled six (6) weeks. Humphreys was never given a hearing on

ineffective assistance of counsel for post conviction relief. The discovery of the felon juror during trial, by the defense attorney, not subsequent to verdict, was not verified with evidence until a civil legal malpractice suit was brought after appeal and post conviction relief was denied. That new evidence is now available.

DISCUSSION

24.

First, this case must be put into proper perspective. The underlying conduct is that over twenty (20) years ago Humphreys signed tax returns prepared by C.P.A.'s from records supplied by his staff and accountants.

This is a unique case that does not have an analogous case as precedent. Each and every other case that the OSB cites can be distinguished. That each of the cases cited by disciplinary counsel had a trial panel that took evidence concerning the "Accused's" conduct that was involved. The misconduct was either admitted, or not contested, the hearing trial panel found violations of the D.R.'s, and there was little or

no mitigating circumstances. There were no due process problems. That is not the case here!

Due process and equal protection under the XIV Amendment to the U.S. Constitution, and Art. 1, Section 10 "Due Course" and Sections 21, 33 equal protection under the Oregon Constitution are extant in this case in which:

- (1) a felon, dishonorably discharged juror returned a judgment of conviction against Humphreys a former Judge Advocate officer which under the law of Texas, Iowa and Oregon results in a void judgment;
- (2) the bar professional responsibility committees of Texas and Iowa did not recommend disbarment, Texas recommended no discipline and dismissal of the proceeding, Iowa recommended a five (5) year suspension with credit for three and one half (3 ½) years;
- (3) Iowa and Texas both did not have trial panels to allow a full opportunity to present evidence, cross examine witnesses etc.;
- (4) BR. 3.5 does not meet the Oregon statutory requirements

for equal entitlement with resident lawyers of a "contested case" procedure - no trial panel is provided, the standard and burden of proof is changed, there is no confrontation of witnesses, presentation of evidence or presumption of innocence for a due process - due course of law hearing;

(5) the statutes of limitations in Oregon bar this case proceeding.

(6) Humphreys ineffective assistance of counsel denied him his day in Court. These palpable defects violate due process and are exceptions to reciprocal discipline. (In Re Ruffalo, 88 S.Ct 1222 (1968), (7 Am Jur 2d Attorneys §39, objections above.)

Tax evasion is not a charge that always has the same underlying conduct. "Moral turpitude" consists of acts of baseness, violence, or depravity in the duties owed to fellow humans, or society, contrary to the accepted and customary rule of right duty, or acts contrary to justice, modesty or good morals. (7 Am Jur 2d §88 Attorneys at Law).

..."moral turpitude is not necessarily involved in federal

tax evasion, and sometimes an independent showing beyond the fact of conviction is required to show the attorney's conduct (7 Am Jur 2d Attorneys §90.)

In this case, Humphreys has exonerating evidence to show his innocence that was not offered at trial. But even facts at trial do not show moral turpitude or conduct warranting discipline. The record without the exonerating evidence shows Humphreys signed tax returns prepared by C.P.A.'s from records kept by office staff, which the I.R.S. stated were "unusually accurate." It involved less than 5% per cent of his income and was below Department of Justice Guidelines for prosecution. Immediately, on being advised back taxes were claimed, they were immediately paid, under protest. This was not some knowing, wilful, or intentional act that amounted to moral turpitude and destroyed Humphreys fitness to practice law. It did not involve any victim or client! Humphreys has never been sanctioned for violating a duty owed to a client in forty two (42) years, neither before or after the conviction.

The case of Theard v. U.S., 77 S.Ct.1274 (1957) by the Honorable Justice Frankfurter, for the U.S. Supreme Court should be recalled in considering another state Court disbarment. In this case at page 1276:

disbarment being the very serious business that it is, ample opportunity must be afforded to show cause why an "Accused" practitioner should not be disbarred...grave reason existed which should continue us that to allow the natural consequences of the judgment to have their effect would conflict with the duty which rests upon us not to disbar except upon conviction, that under principles of right and justice, we were constrained to do ... We do not think that the "principles of right and justice" require a federal Court to enforce disbarment of a man eighteen years after he had uttered a forgery."

In our case, the claimed misconduct goes back to 1983 - twenty two (22) years ago. Considering the circumstances, do the "principles of right and justice" require severe discipline in this case?!

It has been generally recognized that:

"The consequences of disbarment are so severe, both in degrading an attorney in the eyes of the community and in depriving the attorney a means of livelihood, that it should be ordered only when the misconduct of the attorney may properly be characterized as gross." ...Further, an attorney should be disbarred or suspended only where his or her continuance in the practice will be subversive of the proper administration of justice, or incompatible with a proper respect of the Court for itself or a proper regard for the integrity of the profession..." (7 Am Jur 2d Attorneys §36, citing McLaughlin v. Graves, 73 OR 331).

Humphreys has a current record of service to the profession having just completed a term as Secretary of the OSB CLE Committee, relinquishing the Chair for 2005 due to this Notice, as a volunteer for the OSB Military Assistance Panel, the Appellate Panel for Capital Cases, (currently

representing Larry Cole, Murderer); family law volunteer, volunteer attorney for voter protection in the presidential election, lawyer mentioning modest means cases, parental terminations, veterans benefits, and others. He has been a member of the Oregon Trial Lawyers (CLE Committee Volunteer), Oregon Defense Lawyers, and Lane County Bar. He has been Chair of the Oregon Fish and Wildlife Access and Habitat Council Willamette Watershed for two years. He has an active general practice ministry offering reduced fees for those of modest means with heavy contributions of pro bono services and payments to clients of statutory approved fees of thousands of dollars. This provides a necessary public service between legal aid and standard fees. There has never been an incident of disrespect to the Courts, the profession or clients; in forty two (42) years). (See letters from current clients and others.)

SANCTION:

If it is determined that this action is not barred by one

or more of the following:

1. Oregon Statutes of Limitation;
2. That the alleged misconduct in the eighties does not affect his character and fitness to practice law now;
3. That the long delay under the "principles of right and justice" do not require some discipline; in view of the five (5) year plus suspension ('92 - '97).
4. That the legally disallowed convicted felon dishonorably discharged juror does not taint the verdict making the judgement void with no due process and due course of law;
5. That the ineffective assistance of counsel failing to object and failure to offer exonerating evidence violated due process and due course of law.
6. That the failure of Courts in Texas and Iowa to hold trial panel evidentiary hearings to confirm, cross examine witnesses, present evidence with a presumption of innocence and burden of proof on the

bar before imposing sanctions. is an exception to BR 3.5 and other law.

7. That the mandatory reciprocal discipline based on "conclusive evidence" of conviction without considering the conduct involved is inappropriate.
8. That the Oregon procedures and those preceding in Texas and Iowa do deny equal protection of the law by not allowing contested case controversy proceeding with a standard of proof and burden of risk of non persuasion on the bar and others multi jurisdiction lawyers similarly situated from resident lawyers disciplinary proceedings;
9. That the underlying facts in this case do not warrant the same discipline from those of other admitted violators of federal tax laws;
10. That the underlying facts of signing tax returns prepared by C.P.A.'s on records of accountants up to twenty two (22) years ago do not , involve moral

turpitude that does not make Humphreys character and fitness to practice law at this time subject to discipline;

11. That "reciprocal" "mandatory" discipline does not apply in this case because the required elements of collateral estoppel does not apply in this case because the elements of (A) identical issues were not actually litigated; (B) there was not a full and fair opportunity to be heard; and (C) the state of mind and elements involved were different.
12. Considering the cumulative effect of the above together discipline should not be imposed.
13. That at the time of the alleged misconduct Humphreys was not acting in the character of an attorney (The sentencing Court found so.)

In that event this Honorable Court would require a sanction to be imposed at this time, the following should be considered:

CREDIT FOR PREVIOUS SUSPENSION

11.

That if there is any conduct which may be deemed to require discipline, such sanction should take into consideration and give credit for the five (5) years and five (5) months from May 1992 to September 1997, in which the ""Accused"" was suspended. (See, In Re the Matter of Allen, 326 OR 107 (1997), See also, In Re Jaffee, 311 OR 159 (1991)), In Re Walker, 240 OR 65 (1965)). That the five (5) years suspension was equivalent to disbarment in Oregon under the rule existing at that time. That Humphreys did not return to practice in Oregon until 2001. He therefore, did not practice law in Oregon for over eight (8) years from the time of suspension in 1992.

That all alleged conduct and decisions involved in this case were all before January 1996. That B.R. 6.1 sanctions allows a disbarred attorney to apply for reinstatement in five (5) years prior to that time. Now, disbarment is permanent in Oregon. In Texas and Iowa disbarment is not permanent. Reinstatement is allowed in five (5) years so that it was

tantamount to a five (5) year suspension. Humphreys has already been suspended for five (5) years and five (5) months in Oregon.

Under these circumstances and in view of the rules of Oregon in effect prior to 1996 disbarment or further suspension should not be called for. Even under "reciprocal" discipline suspension either for five (5) years, or indefinite until readmission in Texas would generally be the case. (See E.G. Office of Disciplinary Counsel v. Webster, 789 NE2d 191 (Ohio 2003); In Re Breiner, 742 A2d 886 (D.C. 1999); ABA/BNA Manual on Professional Misconduct 101:3001 "In Most Jurisdictions disbarment is not permanent; the disbarred lawyer may apply for readmission after five (5) years.":) In this case, Humphreys has already been suspended for over five (5) years, May 1992 - September 1997. Reciprocal discipline has already been completed!²

OSB claims this suspension was for failure to pay dues or complete CLE requirements. If so, that would be for 30 to 60 days. Humphreys understood at the time it was suspension because of the conviction and did

“Reciprocal” discipline has frequently been imposed throughout the country with the same or less discipline as the other state’s discipline. (See E.G. In Re Ring, 745 A2d 332 (D.C. 2000); In Re Brenier, 742 A2d 886 (D.C. 1999) - 30 day suspension cf indefinite).

The extent of discipline sanctions is discretionary with this Honorable Court. However, it is generally recognized in Oregon that sanctions are not for punishment but for the current protection of public justice and the bar, based on a “balanced consideration of the relevant factors in each case.” (7 ALR 2d Attorneys §36; In Re-Conduct of Brandt, 331 OR 113 (2000); In Re Jim Carpenter, S.Ct.5031 (7/29/04). But disbarment should never be decreed when any less severe discipline would accomplish the purpose (In Re Patterson, 176 F2d 966 (Oregon 1949).

In In Re Complaint as to the Conduct of Jim Carpenter; S.C. §5032 0 (7/29/04); this Court at page 4 states:

not reapply until the OSB advised him he could do so, five (5) years later.

“ T h e r e a r e
 circumstances...when...conduct
 it so divorced from the realm of
 professional conduct that it does
 not necessarily speak to the
 lawyer's conduct and the
 lawyers fitness to practice law to
 establish that the lawyers
 conduct which this Court may
 call the lawyer to answer. If the
 evidence in a discipline case
 does not establish such a nexus,
 then the lawyer is not subject to
 professional discipline...”

The “”Accused””s conduct must be connected rationally to the
 lawyer's fitness to practice law to constitute a violation of D.R.
 1-102 (A)(B) by dishonesty. The Court also states that the
 “”Accused”” “must have acted with a mental state of
 knowledge or intent. See In Re Martin, 328 OR 177 185-6
 (1998).

... the term dishonesty imports
 with it a notice of knowledge
 or intentionality...prior case
 law suggesting knowledge or
 intent is required...

Consequently to violate D.R. 1-102 (A) by dishonesty the
 lawyers conduct must indicate that the lawyer lacks those

characteristics of trustworthiness and integrity that are essential to the practice of law”

This Honorable Court has held that it is the facts and circumstances of each case for federal tax violations that determine whether a case involves moral turpitude. (In Re Walker, 240 OR 65 (1965 - 28 U.S.C. §7203); In Re Corcoran, 215 OR 660 (1959), See also Kentucky State Bar v. Brown, 302 SW 2d 834 (1957-(Dismissed); In Re Moltham, 327 P2d 427 (1958-Washington-Reprimand); In 59 ALR 2d 1397, 1401, “Disbarment-Income Tax Conviction it is stated:

This crime has been viewed most often as not necessarily involving moral turpitude. For this reason courts have required some further or independent showing, beyond the bare fact of conviction for income tax evasion, that the particular conduct in question was infected with moral turpitude before they would impose discipline appropriate to misconduct of that degree, or they have recognized that the respondent might show himself to have been free of moral turpitude

despite his conviction.

In Oregon there is a presumption of innocence in disciplinary matters (In Re Jordan, 295 OR 142 (1983) BR. 3.5 denies that.

In Re Clifford I. Stevenson, 17 DB Rptr. 98 (2003-At Reciprocal 2 years suspended - OR 1 year), In Re James Gress, 17 DB Rptr. 264 (2003-Identical-Reprimand).

Our case requires that the underlying conduct of the "Accused" be considered to determine if it is "so divorced from professional misconduct" and whether it involved knowledge and intent to deceive that is "connected rationally to the lawyers fitness to practice law." **The sentencing Court finding was that conduct as a lawyer was not involved.** The fact show only the signing of tax return prepared by others that at the worst may have omitted less than five (5) per cent of income. The exonerating evidence not offered at trial proves that is not even the case. The ABA/BNA Manual on Professional Conduct No. 229 (7/18/01) 101-302 states:

"it is the underlying conduct-as opposed to a conviction for such conduct - that forms the basis for ethics violations...that not all criminal conduct violates the ethics rules ..each case must be decided on its own facts." (Citing In Re White, 815 P2d 1257 (OR 1991)).

That the ABA/BNA Lawyer's Manual on Professional Misconduct at 101:306 states: that even if a reciprocal discipline conviction is conclusive proof of a crime and no due process exceptions apply, the Court still has to determine whether this criminal conduct adversely reflected on the lawyer's fitness as a lawyer in violation of (State) rule." It has also been held that conduct may be criminal because of the conviction but not dishonest. (In Re Wofthoski-Shaler, 603 NE 2d 1347, 1348 (Ind. 1992) thus it would not violate the D.R.'s or not be serious.

If a sanction is found to be necessary this Courts procedure is to consider (1) the duty violated; (2) the "Accused"s" mental state-knowing, intentional, or negligent,

(3) actual or potential injury that the misconduct caused. In considering that the reciprocal discipline is based on a conviction for tax evasion and filing a false returns prepared by C.P.A.'s based on staff accountants records not the "Accused's" actions. The records they worked from were according to the I.R.S. "amazingly accurate." His conviction was then for signing the tax returns without checking their accuracy to discover they had omitted less than five (5%) per cent of his income. This was not knowingly or intentionally done but could be considered negligence. No conduct as a lawyer was involved.

Mitigating factors that should be considered in imposing any sanctions are:

1. These allegations of misconduct do not involve professional conduct as an attorney. (Finding sentencing judge.)
2. That no clients or individuals were in any way injured by the alleged misconduct of Humphreys.

3. That the criminal prosecution did not meet the Department of Justice Guidelines for prosecution.
4. That immediately on being advised that any taxes were claimed to be due Humphreys paid them in full under protest so no one was "injured."
5. That the tax returns Humphreys signed giving rise to evasion charges were prepared by C.P.A.'s.
6. That exonerating evidence and testimony at the criminal trial was not presented due to ineffective assistance of counsel finding a felon juror during trial and not objecting timely.
7. That the verdict and conviction with a felon juror are considered void and not entitled to enforcement in other jurisdictions under the Restatement of Conflict of Interests 2nd § 104 and the law of many jurisdictions and the law of collateral estoppel.
8. The lack of due process and "due course of law" surrounding the conviction with a dishonorably

discharged felon juror judging a former JAG officer;

9. That the “Accused” did not misrepresent the facts to the Courts by accepting a plea bargain to one charge, nor did he lie to accept responsibility for a lighter penalty or less discipline.
10. That in 42 years of practice no client has ever filed a complaint for which Humphreys has been disciplined. ABA Standard 9.32(a).
11. That there is no record of any prior discipline of any kind (Id.)
12. That no one filed a complaint, and no lawyers, or judge reported or disclosed any misconduct to any bar association that raised a “substantial question as to Humphreys honesty, trustworthiness, character or fitness to practice law from the conduct involved in the conduct involved in the conviction.
13. That the “Accused” made a full and free disclosure of background information with a cooperative attitude

with disciplinary counsel;

14. That there is a significant factor of delay the alleged misconduct occurring in the eighties, as long as, 22 years ago. (ABA Standard 9.32) (In Re Unrkin, 323 OR 285 (1996-Delay of 4 years))
15. Aberrant acts not part of a pattern or scheme (Trial Court finding of fact no pattern or scheme of conduct and no conduct as a lawyer.);
16. Present moral fitness and possibly extent of rehabilitation (ordained to priesthood August, 1998);
17. No disciplinary conduct since disbarment or before;
18. Current competency and qualifications to practice law. (As an officer and member of the OSB and OTLA CLE committees, Humphreys attended and received credit for one hundred and thirty (130) - CLE hours in the last two (2) years.
19. Complete restitution and payment of all taxes, costs and expenses of conviction.

20. Proof that the continuing practice of law would not be detrimental to the public or the bar (See letters of current clients);
21. Imposition of other penalties and completed five (5) years five (5) month suspension in Oregon.

In contrast to the above mitigating circumstances disciplinary counsel has claimed aggravating circumstances of:

1. A dishonest selfish motive (contra to the facts of the underlying conduct, the amounts involved, and the lack of knowing or intentional misconduct);
2. Pattern of misconduct - (contra to the finding of fact by the sentencing Court that no scheme was involved);
3. Multiple offenses (contra void verdict on which judgment was based not on actual conduct) and exonerating evidence not presented shows innocence;
4. Substantial experience in the practice of law. (This is admitted but is objected to as an aggravating factor under the circumstances and the sentencing Courts

finding that no conduct as a lawyer was involved. The many years of service without prior misconduct discipline should be mitigating not aggravating. Further, this is not appropriate where no conduct as a lawyer was involved.)

WHEREFORE the ""Accused"" prays that this Honorable Court "pity the poor widow's son," with the following action by:

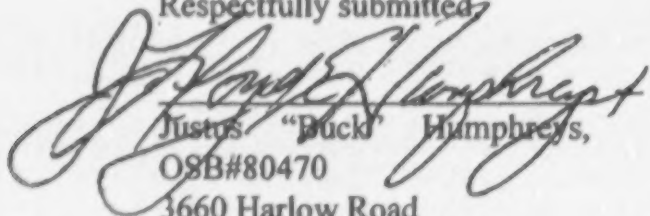
1. Apply the "due course of law" by dismissal of these proceedings;
2. Find the ""Accused" is entitled to a regular "contested case" proceeding without summarily interim suspension;
3. Find that if misconduct be proved that it is not pertinent to the ""Accused""s" present good moral character and fitness to practice law;
4. That if disciplinary sanction be imposed to credit the five (5) years suspension and find no further sanction is

necessary;

5. That should the imposition of some sanction be necessary consider change from active status to pro bono status for some period of time to allow the "Accused" to continue to meet the needs of those modest means clients which require his services. It is the clients who will suffer the most; and/or
6. For such other relief as may be just and fair under the circumstances.

Dated this 3rd day of February, 2005.

Respectfully submitted,



Justus "Buck" Humphreys,

OSB#80470

3660 Harlow Road

Eugene, OR 97401

541-484-2825 Telephone

541-484-2826 Facsimile

ANSWER TO NOTICE-EXHIBIT LIST

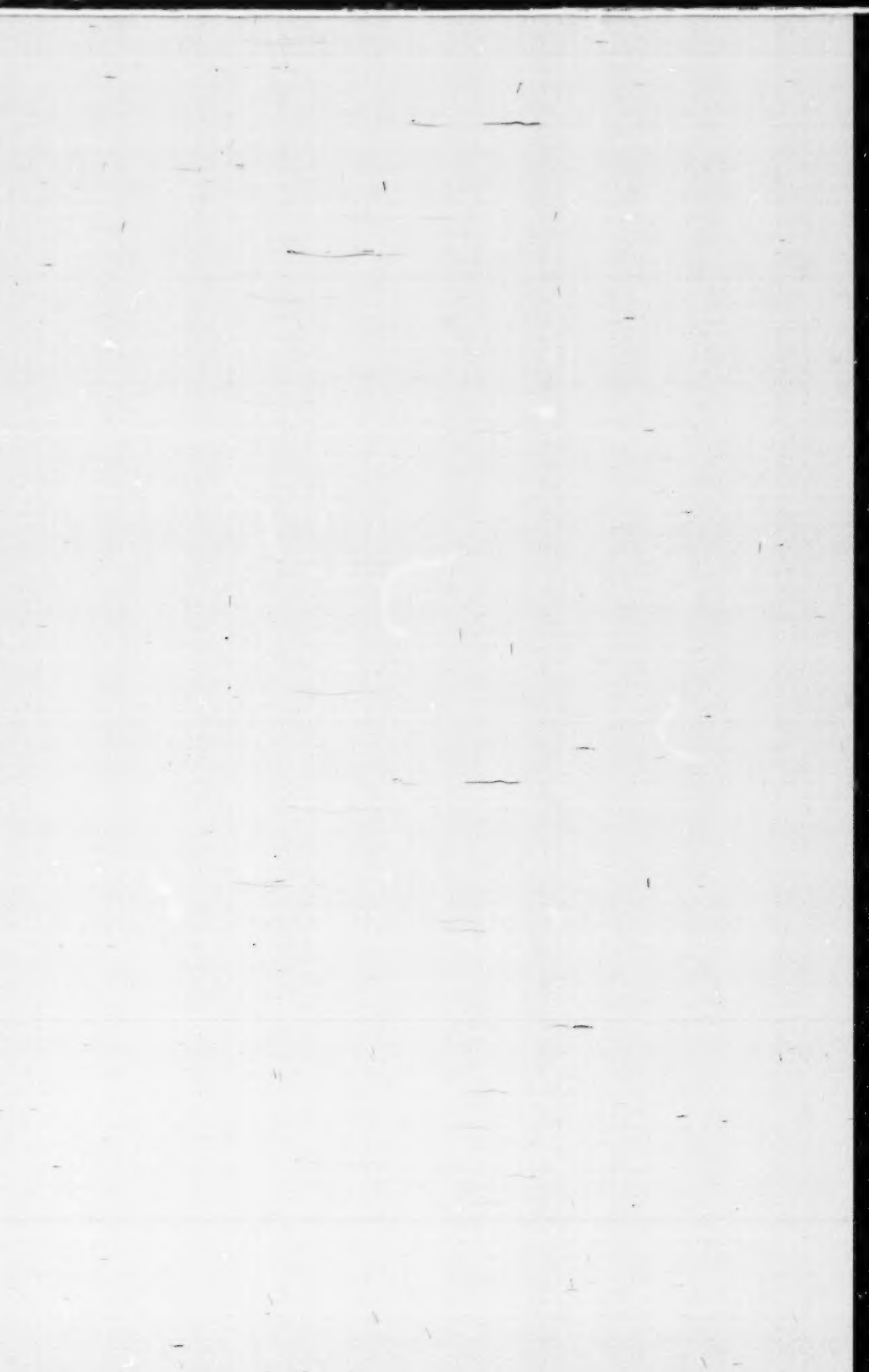
1. Sentencing Findings - no conduct as a lawyer/noscheme or pattern

2. Clerk of Court's certification conviction sent to other jurisdictions - TX, IA, OR; 12/91
3. Model Federal Rules of Disciplinary Enforcement (ABA/NBA) - duty of clerk and judge to notify other jurisdictions - reinstate 5 years after disbar
4. ABA Lawyer Disciplinary Enforcement Rules, Rule 25 - Notices
5. IA Committee on Professional Ethics, page 1 CPEC suspension not disbar
6. TX-BODA (Board of Disciplinary Appeals) - Dismissal - No Discipline
7. Lloyd E. Humphreys & Humphreys & Associates Law Firm, P.C. v. Charles Meadow; Petition For Writ of Certiorari - ineffective counsel
8. Lloyd E. Humphreys & Humphreys & Associates Law Firm, P.C. v. Charles Meadows; Appendix to Petition for Writ of Certiorari - shows "smoking gun"
9. Lloyd Edwin Humphreys v. United States of America; Petition for Writ of Certiorari
10. Affidavits and letters Bruce Steffans, Jim Smith, Debbie Smith and daughter - shows full records presentation no ethics violation - conflict funds advance
11. Affidavits Tax Preparers - C.P.A.'s and

invoices - shows no evasion

12. Question and Answer of C.P.A. to I.R.S.; tax losses; affidavits Dr. and Mrs. Motley - (deduction over \$20,000 not taken) no taxes owed
13. 1985 US Master Tax Guide - property settlement "alimony" deduction - shows property settlements were deduction
14. Phillips Polygraph Service Test - exonerating - by law enforcement expert officer - authority on use and accuracy
15. Affidavits of employees - confirm exoneration
16. Payment of taxes - prior to conviction and cost - no injury
17. Senator Mark O. Hatfield, letter of recommendation, et al.
18. Religious work and outreach
19. Letters of recommendation by current clients
20. Resume
21. OSB Certificate of Appreciation Military Assistance Panel
22. OSB Certificate of Appreciation Continuing Legal Education Committee

(Exhibits not in Appendix.)



05-538 AUG 22 2005

OFFICE OF THE CLERK

In The

Supreme Court of the United States
OCTOBER TERM, 2005

LLOYD EDWIN HUMPHREYS,
Petitioner,

V.

OREGON STATE BAR,
Respondent.

APPENDIX VOLUME II
TO
PETITION FOR WRIT OF CERTIORARI TO THE
OREGON SUPREME COURT

REV. LLOYD E. HUMPHREYS,
M.Th., J.D.
3660 Harlow Road
Eugene, Oregon 97401
541-484-2825 Telephone
541-484-2826 Facsimile
Petitioner, PRO SE

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APPENDIX E
MOTION FOR RECONSIDERATION
I. INTRODUCTION

A. NATURE OF ACTION:

Justus "Buck" Humphreys, was a member of the Oregon State Bar since 1980, the Texas State Bar since 1987, and the Iowa State Bar since 1962. In 1991, he was convicted of federal tax offenses allegedly occurring in the 1980's for total taxes due of \$22,000, by a jury with a dishonorably discharged felon. The federal clerk sent copies of the convictions to the state bars. The Texas Bar found the conviction to be a void judgment because of the illegal juror and recommended no discipline. *No jury trial or trial panel was held.* The Texas Supreme Court in 1994 found compulsory reciprocal discipline was mandatory on conviction and disbarred for a five year period.¹ The Iowa and Oregon Bars suspended Humphreys within six (6) months of conviction. In 1994 following Texas Court ruling Iowa recommended a reciprocal five year suspension with credit for the temporary suspension. *No trial panel hearing was held.* Humphreys residing in Texas since 1987 accepted the suspension and did not oppose it at the Iowa Supreme Court. The court disbarred Humphreys but disbarment was not permanent. Humphreys was reinstated in Oregon after five (5) years. (1992-1997). The Oregon State Bar filed a notice of discipline in another jurisdiction January 12, 2005. The State Professional Responsibility Board (SPRB) held a *private* conference with OSB Disciplinary counsel in November, 2004 and in considering the *confidential* report of disciplinary counsel recommended disbarment pursuant to B.R. 3.5. *No*

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Similar to the Oregon former BR 6.1(e) disbarment rule in effect until (12/14/96).

Oregon local professional responsibility committee, nor trial panel was appointed.

B. **NATURE OF OREGON SUPREME COURT ORDER:**

The Oregon Supreme Court *without hearing* entered an, "Order Imposing Reciprocal Discipline" allowing the SPRB's recommendation of disbarment.

II. PETITION FOR RECONSIDERATION

TO : THE HONORABLE WALLACE P. CARSON, JR,
CHIEF JUSTICE AND THE ASSOCIATE JUSTICES,
WILLIAM R. RIGGS, MICHAEL W. GILLETTE,
ROBERT D. DURHAM, PAUL J. DEMUNIZ, RIVES
KISTLER, THOMAS BALMER.

A. **INTRODUCTION-GROUNDS FOR RECONSIDERATION:**

B. Humphreys petitions the court for reconsideration of it's March 8, 2005, Order Imposing Reciprocal Discipline of Disbarment without hearing, or referral to a trial panel.

The summary rush to judgment allowing the *mandatory* recommendation of the State Professional Responsibility Board has led the scales of justice not being properly balanced with the facts in order to properly apply the rule of law. Humphreys constitutional rights to the due course of law, due process, equal protection, and privileges and immunities have been violated by the errors and omissions built into the compulsory discipline process.

Humphreys respectfully seeks a reconsideration and examination of the record herein and hearing whereby

petitioner will be able to assist this Honorable Court better to examine and understand the circumstances which will result in a revision and reversal of the order; and a miscarriage of justice will occur if the order herein is not reversed based on the following grounds:

1. The protection of the constitutions of Oregon and United States gives it's citizens to equal protection, due process, and due course of law, double jeopardy, and privileges and immunities, which should apply here (*Lowe v. City of Eugene*, 254 OR 535 (1969).
2. Facts and circumstances that were not given full and careful consideration (*Ward v. Ward*, 156 OR 686).
3. To correct mistakes and consider misapprehensions. (*Kentner v. Gulf Insurance*, 298 OR 69, *Fleming v. United Services, Auto Assn*, 330 OR 62.)

That these grounds are so material that if corrected it would result in a substantial alteration or change in the order of 3/8/05 to promote substantial justice.

B. STATE PROFESSIONAL RESPONSIBILITY BOARD "STAR CHAMBER":

Oregon rules and practice go further in denying the Accused *non-resident* lawyer his civil constitutional rights under the rule of law. B.R. 2.5 as to review by the State Professional Responsibility Board (SPRB) requires that for *resident* lawyers, "if the attorney furnishes a response from which disciplinary counsel determines that misconduct be involved. The Complaint shall be referred...to an appropriate LPRC (Local Professional Responsibility Committee) for further investigation or...to the SPRB...the SPRB shall evaluate the Complaint based on the report of disciplinary counsel (i.e.

in secret without the Accused's presence, knowledge of the report, or opportunity to respond.)² The Accused was advised that the SPRB was similar to a grand jury meeting in secret with the Accused refused attendance. This is more like a classic "Star Chamber" proceeding. **This was the procedure used in this case. There was no hearing with argument or evidentiary trial panel procedures as allowed in normal contested cases.**

ORS 9.534 expressly provides:

- (1) The Supreme court shall appoint a disciplinary board to hear formal charges against members of the Bar...
- (2) A member, formally Accused of misconduct by the Bar, **shall be given ... a reasonable opportunity to defend against charges...the right to examine and cross examine witnesses.** The member shall also have the right to appear and testify, and the right to the issuance of subpoenas...production...documents.

No such opportunity has been given to Humphreys!

ORS 670.325 in the "occupations and professions" generally Chapter of the Oregon Statutes specifically provides that "suspension or revocation of any license...shall be conducted pursuant to the procedure for contested cases..." B.R. 3.5 is an improper exception as a "special proceeding" to that statute that denies non resident lawyers the rights and

In this case, the Accused was refused admission to the SPRB meeting, refused some of the information provided the SPRB in writing and orally, and given no opportunity to respond to the secret ex parte communications of disciplinary counsel to the SPRB and denied the right to present evidence, confront witnesses, or cross examine.

privileges granted to resident lawyers Accused of similar conduct in violation of ORS 183.310(2)(a), A, C, .310(2)(A)A.C., as well as, the constitutional rights to equal protection, privileges and immunities, due process and due course of law.

The general conduct of lawyer discipline in the United States has

“some steps followed in the majority of jurisdictions...a trial is held before a judge or an assigned hearing officer, both parties may examine and cross examine witnesses and introduce documentary evidence. The Bar prosecutor has the burden to prove the charges by clear and convincing evidence. Intermediate independent review of the hearing record is afforded prior to consideration by the State’s highest court.” ABA, BNI, Manual on Professional Misconduct, 101:2101, and 2001

None of these were done in any jurisdiction considering this matter. A coterie of compulsory reciprocal discipline decisions first in Texas, then in Iowa and now Oregon are based upon one another with continuing severity and reliance on the foregoing summary - compulsory - reciprocal discipline all of which lack the normal procedural provisions and rights guaranteed to other lawyers. They did not provide full and fair due process and due course of law hearings! They were all “special proceedings and denying the “Accused lawyer” rights granted to other lawyers.

It has been recognized in Oregon that there is a right to an impartial jury or trial panel, and that federal due process under the 6th Amendment and the Oregon Constitution Art. 1 §

11 embodies a 'fairness' standard. (*State v. Merrell*, 170 OR App 400, rev den. 331 OR 674 (2000)).

These proceedings may be sui generis but should the definition of due process and due course of law be different for those accused of crimes and accused lawyers?! In *Specht v. Patterson*, 386 US 605, 608-609 87 S.Ct. 1209, 18L Ed2d 326 (1967) states:

"Due process...requires...(3) have an opportunity to be heard (4) be confronted with witnesses against him (5) have the right to cross examine, and (6) to offer evidence in his own behalf, and (7) there must be findings adequate to make appeal meaningful" *Specht*, 386 US @ +610 (See also *DeAngelo v. Schiedler*, 307 OR 91, 94 (1998); Oregon Constitution Art 1, § 12.

The multiple "reciprocal compulsory disciplines" also raise the issue of the double jeopardy clause of the 5th Amendment, U.S. Constitution which prohibits successive prosecutions and multiple punishments for the same offense. (*State v. Cloutier*, 286 OR 579, 585 (1979))

"Civil pleadings may advance punitive, as well as, remedial goals. The notice of punishment cuts across the division between civil and criminal law." (*Austin v. U.S.* 113 S.Ct. 2801 (1993)).

C. NO DISCRETION IN SPRB RECIPROCAL RECOMMENDATION:

The SPRB then under B.R. 3.5a reciprocal discipline is required to *mandatorily* recommend, "the imposition of discipline in Oregon based on the discipline in the jurisdiction whose action is reported to the court." The SPRB then after secret hearing and esoteric evidence by disciplinary counsel

without the Accused lawyers presence or opportunity for rebuttal cannot independently make a favorable decision not to go forward with the discipline...

"The judgment...shall be accompanied by a recommendation of the SPRB as to the imposition of discipline in Oregon *based on the jurisdiction whose action is reported...*"

The SPRB made that *mandatory* required compulsory recommendation in this case for disbarment. It was not the result of an independent evidentiary hearing with the participation of the Accused!

D. **SPRB RECOMMENDATION WAS EXCESSIVE AND VIOLATED BAR RULES:**

1. **Not current Ex Post Facto rule** - the SPRB disbarment sanction recommendation in this case is also wrong due to the change in B.R. 6.1(e). The former disbarment in Oregon was for a five (5) year period. It is that five (5) year period with reinstatement thereafter that was in effect at all times material hereto - i.e. in the 1980's when the alleged taxes weren't paid and in 1991 at the time of conviction, and in 1992 when Oregon suspended him for five (5) years. The discipline recommended at that time required is reported as, "should be a five (5) year suspension"³ - not a permanent disbarment under the new rule. That is an ex post facto rule. Oregon has precedent to apply the law and rules in affect at the time of the alleged misconduct, not the ex post facto rule. (See e.g. *In Re Osiris*, 40 P3d 500 (2002), *In Re Gatti*, 330 OR 517, (2000)), OSB Legal Ethics OP. No 2000-161, Accord, *In Re Welker*, Utah No 26030428 10/15/04, 20 Lawyer's Manual on

³ Which was already imposed.

Professional Conduct 547 (11/13/04).

"The basis for lawyer discipline is the ethics rule in force in the state at the time of the conduct." ⁴

There is a duty recognized on the judiciary not to disbar, except when constrained to do so under principles of right and justice. That an ample opportunity must be afforded to show cause why an accused lawyer should not be disbarred. *Theard v. U.S.* 77 S. Ct. 1274, 354 U.S. 279 (1957).

An accused lawyer in disciplinary proceedings is presumed innocent *In Re Jordan*, 295 OR 42 (1983), *In Re Egan* 11 DBR 208, 210 (1997); except under the reciprocal "special proceeding."

A lawyer accused of a crime committed in a private capacity when there is not doubt as to his guilt should still not be disbarred summarily. The complaint was dismissed *Ex Parte Cowing*, 26 OR 572, 38 P1090 (1895), an old but still valid precedent!

A lawyer who was given no opportunity for a hearing on the Board of Governor's decision to disbar him was reinstated and suspended. *In Re Ronchetto*, 202 OR 410 (1954).

Disciplinary proceedings involving a lawyer who has switched to inactive status after tax problems arose were deferred until the lawyer sought reinstatement. The lawyer was given a two (2) year suspension from the date disciplinary

4

I.E. the 1980's back to twenty three (23) years ago. There was no reciprocal discipline provision at that time. ABA, BNI Manual on Professional Discipline Section 101:2002.

proceedings could have been concluded, automatic reinstatement and one (1) year probation *In Re Walker*, 240 OR 284, (1965).

"A State cannot exclude a person from the practice of law,...in a manner, or for reasons that contravene the due process or equal protection clause of the 14th Amendment." *Schwartz v. BD Bar Examiners*, 353 US 232, (1957).

2. CHOICE OF LAW RULE REQUIRES DISMISSAL OR REDUCED SANCTION:

B.R. 1.4 Establishes the choice of law. Under the rule that would be the State of Texas where Humphreys resided and maintained his practice from 1987 to 1994, all times material hereto.

Under Texas law the criminal conviction was void and of no effect. (Notice Exhibit.) Texas law also provides two other rules applicable here. One is Texas Civil Code 16.051 and Government Code 15.00A statutes of limitations of four (4) years to bring petitions on disciplinary matters. The other is that disbarment allows reinstatement after five (5) years.

If B.R. 1.4 is applied in this, as it should be under Oregon rules, the conviction upon which all reciprocal discipline is based is void and of no effect, a petition for discipline would have had to be filed within four (4) years or by 1995 and the sanction, if any, would be suspension for five (5) years.³

Which already took place in Oregon from 1992 - 1995). It should also be reported that the documents attached to the supplemental affidavit

E. IMPROPER BURDEN OF PROOF SWITCHED FROM BAR TO ACCUSED:

Disciplinary proceedings usually require a high burden of proof on the disciplinary counsel that is clear and convincing. B.R. 5.2 requires that in all resident lawyers local disciplinary proceedings. However, B.R. 3.5 (f) reverses that burden of proof and imposes it on the Accused lawyer practicing in multiple jurisdictions. It is also generally recognized in Oregon that an Accused lawyer who has a Complaint filed against him is innocent until the trial panel's hearing is complete and findings made. Under B.R. 3.5 (b) "reciprocal discipline that classic American presumption of innocence is reversed and a judgment from a different jurisdiction in a case with different laws, procedures and different issues is "sufficient evidence of misconduct" and "that the attorney committed the misconduct." This violates the equal protection, privileges, immunities, due course of law, and due process rights.

F. THE COMPLAINT FAILS TO STATE A CLAIM FOR DISCIPLINE:

That the privileges and immunities, and equal protection clauses of the Oregon Constitution require that the Respondent and other attorneys similarly situated are entitled to the same rights, benefits, privileges and immunities of other citizens under the equal protection of the law. That attorneys under reciprocal "special proceedings" should also be entitled to the same rights as other attorneys in discipline proceedings. That Oregon does not have a "due process" clause within it's constitution. But the 14th Amendment of the United States Constitution requires certain legal due process in the State of Oregon. The "due course of law" provision of Art. 1 §10 of the

herein were just obtained from the OSB in January, 2005, and it was first learned that the OSB did not request a federal criminal check.